



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
OREGON OPERATIONS OFFICE
 811 S.W. 6th Avenue
 Portland, Oregon 97204

September 27, 2005

Mr. Jim McKenna
 Port of Portland & Co-Chairman, Lower Willamette Group
 121 NW Everett
 Portland, Oregon 97209

Mr. Robert Wyatt
 Northwest Natural & Co-Chairman, Lower Willamette Group
 220 Northwest Second Avenue
 Portland, Oregon 97209

Re: Portland Harbor Superfund Site; Administrative Order on Consent for Remedial Investigation and Feasibility Study; Docket No. CERCLA-10-2001-0240

Dear Messrs. Wyatt and McKenna:

EPA, DEQ, and the LWG have been discussing the role of the Safe Drinking Water Act's maximum contaminant levels (MCLs) in the Remedial Investigation and Feasibility Study (RI/FS) at the Portland Harbor Superfund Site. The issue has come up in the context of the groundwater sampling plan and EPA and DEQ's joint source control strategy. Likewise, MCLs should be considered as we begin identifying preliminary remediation goals for the RI/FS. We are writing to inform you that, consistent with CERCLA, the NCP, and existing EPA guidance, the MCLs should be added to the preliminary list of applicable or relevant and appropriate requirements in the Portland Harbor RI/FS Work Plan.¹

CERCLA cleanups must attain "a level or standard of control for . . . hazardous substance or pollutant or contaminant which at least attains . . . legally applicable or relevant or appropriate standard[s], requirement[s], criteria, or limitation[s]." 42 U.S.C. §9621(d)(2)(A). CERCLA further provides that any remedial action "shall require a level or standard of control which at least attains Maximum Contaminant Level Goals established under the Safe Drinking Water Act . . . and water quality criteria established under section 304 or 303 of the Clean Water Act . . ., where such goals or criteria are relevant and appropriate under the circumstances of the release or threatened release." 42 U.S.C. § 9621(d)(2)(A).

¹Federal criteria and state water quality standards are also available for combined organism and water ingestion. Once more information is known and analyzed relative to risk and remediation goals, EPA may identify such organism and water ingestion standards as applicable or relevant and appropriate requirements (ARARs) in the EPA Portland Harbor ROD(s).

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The National Contingency Plan (NCP) states the expectation that "usable ground waters will be returned to their beneficial uses wherever practicable, within a timeframe that is reasonable given the particular circumstances of the site, and if restoration to all beneficial uses is not practicable, it is expected that further migration and exposure will be prevented." 40 CFR 300.430(a)(1)(iii)(F). Subsection 430(e)(2)(i) of Part 300 provides that chemical-specific ARARs, such as MCLs, should be used as preliminary remediation goals for comparison to contaminant concentrations found in groundwater and surface water at a site. Furthermore, subsections 430(e)(2)(i)(B) and (C) of Part 300 address attainment of non-zero MCLGs or MCLs where relevant and appropriate to the circumstances of the release.

In general, MCLs under the Safe Drinking Water Act are standards that public water suppliers must meet at the tap after treatment. Thus, MCLs typically are not considered to be an applicable requirement for CERCLA cleanups, unless people are currently drinking contaminated water. Based on existing information, the most significant facts that would make the MCLs relevant and appropriate to the Portland Harbor Superfund Site include: (1) the Safe Drinking Water Act addresses groundwater and surface water that is or may be used for drinking water; (2) contaminants addressed by the SDWA are found in groundwater discharging to the Willamette River; (3) groundwater and surface water at the Portland Harbor Site are potable and a potential drinking water source; and (4) drinking water supply is a designated use for the lower Willamette River. See 40 CFR 300.400(g)(2)(i) – (viii) for the factors EPA are to consider in determining whether a standard is relevant and appropriate. For all of these reasons, the MCLs are likely ARARs for the CERCLA cleanup.

EPA requests that the LWG use the MCLs in preparing the RI/FS as appropriate. At a minimum, such standards should be used as screening criteria for data gathering, risk assessments, and further analysis of risks at the site. We anticipate that these standards will facilitate development of PRGs and the human health exposure scenarios for the baseline risk assessment. We look forward to working with the LWG on these important issues.

If you have any questions, please call Chip Humphrey at (503) 326-2678 or Eric Blischke (503) 326-4006. All legal inquiries should be directed to Lori Cora at (415) 972-3949.

Sincerely,



Chip Humphrey
Eric Blischke
Remedial Project Managers

cc: Greg Ulirsch, ATSDR
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